

RAIN AND HAIL INSURANCE SERVICE, INC.)	AGBCA No. 97-192-F
and RAIN AND HAIL L.L.C.,)	
(Compliance Case: James W. Council, Jr.))	
)	
Appellants)	
)	
Representing the Appellants:)	
)	
Frank W. Pechacek, Jr., Esquire)	
Bruce B. Green, Esquire)	
Willson & Pechacek)	
P.O. Box 2029)	
Council Bluffs, Iowa 51502)	
)	
Representing the Government:)	
)	
Mark R. Simpson, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
1718 Peachtree Road, Suite 576)	
Atlanta, Georgia 30309-2409)	

DECISION OF THE BOARD OF CONTRACT APPEALS

June 6, 2002

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On August 21, 1997, the Board received this appeal from Rain and Hail Insurance Service, Inc. (RHIS) and Rain and Hail L.L.C. (R&H) (Appellants), of West Des Moines, Iowa, involving the U. S. Department of Agriculture, Federal Crop Insurance Corporation (FCIC). Relying upon a Standard Reinsurance Agreement (SRA), RHIS provided insurance to a producer, James W. Council, Jr. for various crop years, including the 1995 crop year here at issue. The SRA represents a cooperative financial assistance agreement to deliver multiple peril crop insurance under the authority of the Federal Crop Insurance Act, as amended, 7 U.S.C. ' ' 1501 *et seq.*

Under Compliance Case No. RA-RHEL-399, regarding the insurance of James W. Council, Jr., the Government determined that the insurance company is liable to the Government for \$18,738, i.e.,

\$174 for a premium overstatement and \$18,564 for an indemnity overpayment. The dispute focuses upon the correct classification for the insured (as opposed to other entries in the classification under the surname Council) as a producer of peanuts.

Regulation provides the Board with the authority to resolve this timely-filed matter (7 CFR 24.4(b), 400.169(a)-(d)). Following telephone conferences, the completion of discovery and the closing of the evidentiary record, under Board Rule 11, as well as the submission of briefs, each party sought to submit a reply brief. The Board suggested that the parties address specific matters in the reply briefs. In lieu of submitting reply briefs, the parties settled the dispute.

By letter dated May 22, 2002 (received at the Board on June 5), the parties seek a dismissal with prejudice of this matter. The parties have settled the dispute, with the insurance company agreeing, among other items, that it collectively overpaid \$9,655 in indemnity payments to the insured for the 1995 crop year.

DECISION

In light of the request, the Board dismisses with prejudice this matter.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
June 6, 2002